

S. Reid Kahn, Esq. (SRK-1458)
KANE KESSLER, P.C.
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New York, New York 10019
(212) 541-6222

Attorneys for Defendants
 Sole City, Inc., Solomon Safdeye and Alan Kandall

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FULL CREATIVE, LTD. d/b/a I.C.B.	:	04 Civ. 2907 (RJH)(GWG) <i>Action No. 1</i>
ASIA, CO., LTD.,	:	
Plaintiff,	:	
- against -	:	NOTICE OF MOTION TO BE RELIEVED <u>AS COUNSEL</u>
SOLE CITY, INC., SOLOMON	:	
SAFDEYE, ALAN KANDALL, JEFFREY	:	
BERNSTEIN and MARC DOLCE	:	4 CV 2937 (RJH) <i>Action No. 2</i>
Defendants.	:	
INNOVATIVE CUSTOM BRANDS INTL., INC.,	:	
Plaintiff,	:	4 CV 2937 (RJH) <i>Action No. 2</i>
-against-	:	
SOLE CITY, INC., SOLOMON SAFDEYE,	:	
ALAN KANDALL, JEFFREY BERNSTEIN	:	
and MARC DOLCE,	:	
Defendants.	:	

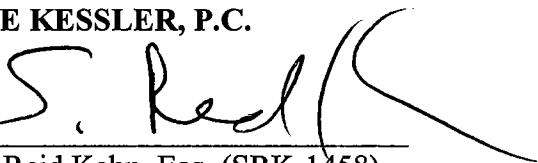
PLEASE TAKE NOTICE, that upon the annexed affidavit of S. Reid Kahn, Esq., sworn to on the 8th day of October, 2004, and upon all of the prior proceedings and pleadings heretofore had herein, Kane Kessler, P.C., attorneys for defendants Sole City, Inc., Solomon Safdeye, and Alan Kandall, moves this Court for an Order, pursuant to Rule 1.4 of the local rules of the United #213133.1

States District Courts for the Southern and Eastern Districts of New York, relieving Kane Kessler, P.C. as counsel for defendants Sole City, Inc. and Solomon Safdeye, and for such other, further and different relief as this Court deems to be just, proper and equitable.

PLEASE TAKE FURTHER NOTICE, that pursuant to local Rule 6.1(b), opposition papers must be served within ten (10) business days after service of the moving papers.

Dated: New York, New York
October 8, 2004

KANE KESSLER, P.C.

By: 

S. Reid Kahn, Esq. (SRK-1458)
Attorneys for Defendants
Sole City, Inc. and Solomon Safdeye
1350 Avenue of the Americas
New York, New York 10019
(212) 541-6222

TO: **GURSKY & PARTNERS, LLP**
Attorneys for Plaintiff
1350 Broadway, 11th Floor
New York, New York 10018
(212) 904-1234

SOLE CITY, INC.
c/o Solomon Safdeye
1115 Ocean Parkway
Brooklyn, New York 11230

SOLOMON SAFDEYE
1115 Ocean Parkway
Brooklyn, New York 11230

**S. Reid Kahn, Esq. (SRK-1458)
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1350 Avenue of the Americas
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Attorneys for Defendants
Sole City, Inc., Solomon Safdye and Alan Kandall

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FULL CREATIVE, LTD. d/b/a I.C.B. : **04 Civ. 2907 (RJH)(GWG)**
ASIA, CO., LTD., : *Action No. 1*
Plaintiff. :

- against -

**SOLE CITY, INC., SOLOMON
SAFDEYE, ALAN KANDALL, JEFFREY
BERNSTEIN and MARC DOLCE**

Defendants.

AFFIDAVIT

INNOVATIVE CUSTOM BRANDS INTL., INC.

4 CV 2937 (RJH)
Action No. 2

-against-

**SOLE CITY, INC., SOLOMON SAFDEYE,
ALAN KANDALL, JEFFREY BERNSTEIN
and MARC DOLCE**

Defendants

S. REID KAHN, ESQ., being duly sworn, deposes and says:

1. I am an attorney at law of the State of New York and I am a member of the law firm of Kane Kessler, P.C., attorneys for defendants Sole City, Inc. ("Sole City"), Solomon Safdeye ("Safdeye") and Alan Kandall in the above-referenced matters.

2. I submit this affidavit in support of the motion of Kane Kessler, P.C. to be relieved as counsel for Sole City and Safdeye.

3. Upon information and belief, Safdeye is the President and sole stockholder of Sole City.

Posture of the Actions

4. Action no. 1 was commenced on April 15, 2004, and Action no. 2 was commenced on April 16, 2004.

5. In Action no. 1, plaintiff has asserted claims for breach of contract, account stated, fraud, negligent misrepresentation and unjust enrichment arising from the alleged failure of Sole City to pay for goods sold and delivered to it by plaintiff for the price of \$1,400,000.00.

6. In Action no. 2, plaintiff has asserted claims for trademark infringement, false designation of origin and false advertising under the Lanham Act, common law trademark infringement, breaches of contract, fraud, negligent misrepresentation and unjust enrichment. The claims of plaintiff in Action no. 2 allegedly arise from defendants' violation of plaintiff's federal and common law trademark rights, breaches of certain agreements and allegations that material misrepresentations were made to plaintiff to induce plaintiff to forestall action to collect monies owed to it and to support a business arrangement between Sole City and a third party.

7. Subsequent to the commencement of the aforesaid actions, plaintiff dismissed its claims against defendants Alan Kandall, Jeffrey Bernstein and Mark Dolce pursuant to Rule

41(a)(1), in Action no. 1 and Action no. 2 without prejudice and without an award of costs, expenses or disbursements to any party.

8. In addition, on or about July 7, 2004, plaintiff executed a stipulation dismissing the third and fourth claims for relief as to the Sole City and Safdeye in Action no. 1 which involved allegations of fraud and negligent misrepresentation. Similarly, by a stipulation dated July 7, 2004, plaintiff agreed to dismiss the seventh and eighth claims contained in Action no. 2 against Sole City and Safdeye which also involved allegations of fraud and negligent misrepresentation.

9. On July 16, 2004, an initial pre-trial conference was conducted in Action no. 1 and Action no. 2. At that time, the Court ordered that the actions be consolidated for pre-trial purposes (the "Order").

10. Pursuant to the Order entered at the initial pre-trial conference, Sole City and Safdeye responded to plaintiff's first request for production of documents in Action no. 1 and produced documents containing bates stamp numbers 1 through 3135.

11. A motion to dismiss Action no. 2 has been fully submitted to this Court but no decision has been rendered as of this date.

12. An answer to the complaint in Action no. 1 on behalf of Sole City and Safdeye was served on September 7, 2004.

13. A pre-trial conference has been scheduled for October 28, 2004, at 10:00 a.m., in Courtroom 219, located at 40 Centre Street, New York, New York.

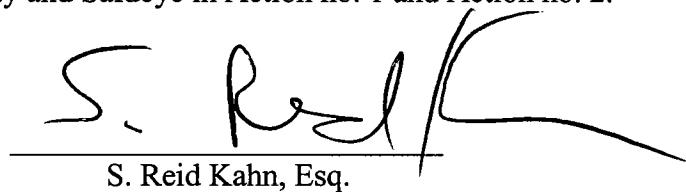
Reasons for Withdrawal

14. Defendant Sole City is no longer in business and we have been informed by Safdeye that it has no assets to pay for the services of an attorney. In addition, defendant

Safdeye has informed us that he is not financial capable of paying any additional legal fees in this matter, and he has requested that we take no further action which would result in any financial liability to him for attorneys' fees.

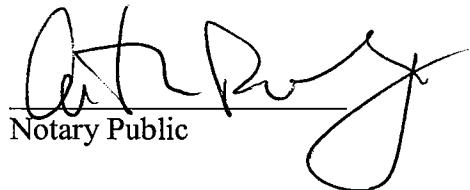
15. Safdeye has informed us individually and on behalf of Sole City that he consents to our withdrawal as counsel. Safdeye has informed us that he intends to represent himself in Action no. 1 and Action no. 2 since he cannot afford to pay an attorney.

16. Based upon the foregoing, I respectfully request that Kane Kessler, P.C. be relieved immediately as counsel for Sole City and Safdeye in Action no. 1 and Action no. 2.



S. Reid Kahn, Esq.

Sworn to before me this
8th day of October, 2004



Notary Public

Arthur M. Rosenberg
Notary Public, State of New York
No. 02RO4870146
Qualified in New York County
Commission Expires August 11, 2006

AFFIDAVIT OF SERVICE BY REGULAR MAIL

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

I, Nellya Dym, being duly sworn, say:

I am not a party to the within action, am over 18 years of age, and reside in Brooklyn, New York.

On October 8, 2004, I served the within:

NOTICE OF MOTION TO BE RELIEVED AS COUNSEL

by delivering true copies hereof, enclosed in post-paid wrappers, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following:

Gursky & Partners, LLP
Attorneys for Plaintiff
1350 Broadway, 11th Floor
New York, New York 10018

Sole City, Inc.
c/o Solomon Safdye
1115 Ocean Parkway
Brooklyn, New York 11230

Solomon Safdye
1115 Ocean Parkway
Brooklyn, New York 11230


Nellya Dym

Sworn to before me this
8th day of October, 2004.



Notary Public

JEFFREY H. DAICHMAN
Notary Public, State of New York
No. 41-4615270
Qualified in Queens County
Certificate Filed in New York County
Commission Expires June 9, 2007